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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,768	11/28/2000	Hiroshi Kondo	1503.64981	6836

24978 7590 11/01/2005

GREER, BURNS & CRAIN  
300 S WACKER DR  
25TH FLOOR  
CHICAGO, IL 60606

EXAMINER

PUENTE, EMERSON C

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/723,768

Applicant(s)

KONDO ET AL.

Examiner

Emerson C. Puente

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-30,32,33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-25,27,29 and 32 is/are allowed.
- 6) ☒ Claim(s) 26,28,30,33,35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 March 2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

This action is made **Non-Final**. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Claims 13-30, 32-33, and 35-36 have been examined. Claims 1-12, 31, and 34 have been cancelled.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 35 and 36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to intangible embodiments. In view of Applicant's disclosure, Specification page 52 discloses a transmission medium as a network line, which is an intangible embodiment. Therefore the claims are non-statutory

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 28, 30, 33, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,500,940 of Skeie et al. referred hereinafter "Skeie".

In regards to claim 26 and 28, Skeie discloses a notification apparatus, comprising:

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a first system including a confirmation device for determining, when a failure occurs in a device in the first system and use of the failed device is prohibited, whether use of any other devices in the first system should be prohibited as a result of the failed device. Skeie discloses defining impact on other storage components in the event one component fails (see figure 6 item 56 and column 8 lines 14-25) and a failure of an independent component, such as a single power supply, can lead to failure of the entire system (see column 7 lines 39-47). Thus, when the storage system determining a failure to a single power supply, thus indicating a failure occurs in a device and use of the failed device is prohibited, it determines the failure of the entire system or the prohibition of other devices in the system, thus indicating whether other device in the first system should be prohibited as a result of the failed device.

a notification device for changing a state of the failed device and any other devices that are determined to be prohibited from use and notifying a second system, external to the first system, of the prohibition of use of the failed device and the other devices in the first system. Skeie discloses notifying the user which components that have failed (see column 8 lines 45-52), thus indicating changing a state of the failed device and any other devices that are determined to be prohibited from use. Furthermore, Skeie discloses the user connected via network/server to the storage system (see figure 5), thus indicating notifying a second system, external to the first system, of the prohibition of use of the failed device and other devices in the first system

In regards to claim 30, 33, and 36 Skeie discloses a notification method, comprising:

prohibiting use of a failed device when a failure occurs in one system of an open system and determining whether use of any other devices in the first system should be prohibited as a result of the failed device. Skeie discloses defining impact on other storage components in the

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event one component fails (see figure 6 item 56 and column 8 lines 14-25) and a failure of an independent component, such as a single power supply, can lead to failure of the entire system (see column 7 lines 39-47). Thus, when the storage system determining a failure to a single power supply, thus indicating prohibiting use of a failed device when a failure occurs in one system of an open system, it determines the failure of the entire system or the prohibition of other devices in the system, thus indicating whether use of any other devices in the first system should be prohibited as a result of the failed device.

changing a state of the failed device and any other devices that are determined to be prohibited from use and notifying a second system, external to the one system, of the prohibition of use of the failed device and other devices in the one system. Skeie discloses notifying the user which components that have failed (see column 8 lines 45-52), thus indicating changing a state of the failed device and any other devices that are determined to be prohibited from use. Furthermore, Skeie discloses the user connected via network/server to the storage system (see figure 5), thus indicating notifying a second system, external to the first system, of the prohibition of use of the failed device and other devices in the first system

the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device. Skeie discloses an electronic data storage system(see column 4 lines 1-5), thus indicating a storage device.

***Examiner's Statement of Reason for Allowance***

Claims 13-25, 27, 29, and 32 are allowable over the prior art of records.

The following is an Examiner's statement of reasons for the indication of allowable subject matter: Claims 13, 27, 29, and 32 are allowable over the prior art of record because the Examiner found neither prior art cited in its entirety, nor based on the prior art, found any motivation to combine any of the said prior arts.

The reason for allowance for claim 13, 27, 29, and 32 is the inclusion of determine a failure has occurred in a device and a use of the failed device is prohibited, the determination of the failure being made independent of a device control unit that performs control over the failed device, instructing the device control unit that performs control over the failed device to access the failed device when the determination is made that the failure has occurred in the failed device, and recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device in conjunction with the rest of the limitation set forth in the claim.

The remaining claims, not specifically mentioned, are allowed because they are dependent upon one of the claim mentioned above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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See PTO 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C. Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

**Emerson Puente**  
5/2/05

  
ROBERT BEAUSOLIEL  
SENIOR PATENT EXAMINER  
TECHNOLOGY CENTER 2100